Remarks

Reconsideration of the application is respectfully requested in view of the foregoing amendments and following remarks. Please cancel claim 23. Upon entry of this amendment, claims 1-22, and 24-38 remain in the application.

Formal Request For Interview

Upon reviewing this response, if any issues remain, the Examiner is formally requested to contact the undersigned prior to issuance of the next Office Action in order to arrange a telephonic interview. It is believed that a brief discussion of the merits of the present application may expedite prosecution. Applicants submit the foregoing formal Response so that the Examiner may fully evaluate Applicants' position, thereby enabling the interview to be more focused. This request is being submitted under MPEP § 713.01, which indicates that an interview may be arranged in advance by a written request.

Patentability Over DeLong

The Office has asserted a novelty rejection of claims 1-14, 19-22, 25, 27-28, and 30-38, under 35 U.S.C. § 102(e) over U.S. Patent No. 6,247,169 ("DeLong"). Respectfully, Applicants traverse these rejections.

Claim 1

Applicants respectfully submit that the Office has failed to establish anticipation of claim 1, because DeLong fails to teach or suggest "identifying an unresolvable code in the input stream wherein a translator is unable to translate the unresolvable code from a first language representation into a second language representation; and placing at least one second language representation instruction in the output stream responsive to identifying the unresolvable code in the input stream."

The Office asserts that applicant's argument in favor of previous claim 1 is "not persuasive" (Office Action mailed April 21, 2005, at page 19) because the argument relies on features "not recited in the rejected claim(s)." *Id.* at page 22. For example, the Examiner asserts that Applicants argument that "[w]hen a translator encounters such unresolvable code in the input stream, the translator is unable to translate the unresolvable code" is not present in the

claims. *Id.* at page 22. Although Applicants disagree, Applicants respectfully thank the Examiner for providing constructive feedback in the examination process.

Applicants respectfully submit that unamended claim 1 recites a method of "translating" where the method places "at least one second language representation ... instruction in the output stream" when an "unresolvable translation error" is identified in the "input stream." Thus, unamended claim 1 already comprises a "translating" method that identifies an "unresolvable translation error" in a first language input stream and places a "second language representation instruction in the output stream." As such, Applicants respectfully submit that the amendments to claim 1 do not alter the scope of claim 1, and thus claim 1 is not being amended for purposes of patentability. Rather, the amendments restate limitations already present in unamended claim 1, and claim 1 is being amended to avoid unnecessary prosecution expenses that would be required to appeal a claim that Applicants believe provide the same scope. Thus, in the spirit of cooperation and in an attempt to forward a claim of the same scope to issuance, Applicants have amended claim 1, to more closely track language that the Examiner believes was argued but not claimed.

Applicants respectfully submit that DeLong fails to teach or suggest a method of "translating" comprising "identifying an unresolvable code in the input stream wherein a translator is unable to translate the unresolvable code from a first language representation into a second language representation; and placing at least one second language representation instruction in the output stream responsive to identifying the unresolvable code in the input stream."

For example, DeLong fails to teach anything about (i) a method of translating comprising identifying an unresolvable code in the input stream wherein a translator is unable to translate the unresolvable code from a first language representation into a second language representation, and (ii) placing at least one second language representation instruction in the output stream responsive to identifying the unresolvable code in the input stream.

For example, DeLong discusses a method of encapsulating a protected region of code within an exception construct. *See e.g.,* DeLong, the Abstract. However, DeLong fails to disclose that the protected region of code was created because an instruction could not be translated from a first language into a second language. *See e.g.,* DeLong, col. 3, line 30.

DeLong is a disclosure of the prior art methods of providing exception constructs. Nowhere does DeLong teach or suggest anything about "unresolvable code" that a "translator is unable to translate" from a "first language representation into a second language representation." None of the references of record in this matter teach or suggest the recited arrangement.

For at least this reason claim 1 is allowable. Such action is respectfully requested.

Claims 2-14, 19, 20, 33, and 35-38

Claims 2-14, 19, 20, 33 and 35-38 depend from claim 1. Since they depend from claim 1, they should be allowed for at least the reasons stated for claim 1. In view of the foregoing discussion of claim 1, the merits of the separate patentability of dependent claims 2-14, 19, 20, 33 and 35-38 are not belabored at this time. Claims 2-14, 19, 20, 33 and 35-38 should be allowable. Such action is respectfully requested.

Independent Claims 21, 25, 27, 28, 30, 34

Applicants respectfully submit that for reasons similar to those stated above, such as for claim 1, DeLong fails to teach or suggest the following features:

Claim 21—"an unresolvable instruction in the input stream is an instruction a translator is unable to translate from a first language representation into a second language representation in the output stream"

Claim 25—"an unresolvable instruction is an instruction a translator is unable to translate from a first language representation into a second language representation"

Claim 27—"placing a handling instruction in the second language output stream in response to identifying the untranslatable instruction in the first language input stream wherein an untranslatable instruction is an instruction in a first language input stream that a translator is unable to translate into an instruction in a second language output stream"

Claim 28—"a translation sub-unit operational to determine that code identified in the first language input stream can not be translated from a first language into a second language, and responsive to the determination, inserting an exception throwing instruction in the second language output stream"

Claim 30—"a translation sub-unit operational to determine that an instruction encountered in the first language input stream cannot be translated into the second language

output stream, and in response to the determination, inserting a handling instruction in the second language output stream"

Claim 34—"identifying an instruction in the first file that a compiler is unable to translate into a second language representation; and inserting a second language representation of an exception throwing instruction into the second file near where the identified instruction would have been placed in the second file by the compiler if the instruction were translatable"

The amendments to claims 21, 25, 27, 28, 30 and 34 restate limitations already present and are amended to avoid unnecessary prosecution expenses that would be required to appeal a claim that Applicants believe provide the same scope. Since DeLong fails to teach or suggest these features of independent claims 21, 25, 27, 28, 30 and 34 they should be allowable. Such action is respectfully requested.

Dependent Claims 22, 31, and 32

Claims 22, 31, and 32 depend from the above allowable independent claims. Since claims 22, 31, and 32 depend from the above allowable independent claims, they should be allowed for at least the above reasons. Such action is respectfully requested.

Patentability Over DeLong in view of Lethin

The Office has asserted an obviousness rejection under 35 U.S.C § 103(a) against claim 18 over Delong in view of U.S. Patent No. 6,463,582 ("Lethin"). Respectfully, Applicants traverse this rejection.

Claim 18

Claim 18 depends from claim 1. For the reasons stated above for claim 1, DeLong fails to teach or suggest "identifying an unresolvable code in the input stream wherein a translator is unable to translate the unresolvable code from a first language representation into a second language representation; and placing at least one second language representation instruction in the output stream responsive to identifying the unresolvable code in the input stream." Additionally, a DeLong-Lethin combination fails to teach or suggest the recited arrangement.

For example, Lethin does described "translating a computer program in one machine language into another machine language." Col. 53, lines 6-8. However, nowhere does Lethin

teach or suggest (i) identifying an unresolvable code in the input stream wherein a translator is
unable to translate the unresolvable code from a first language representation into a second
language representation, and (ii) placing at least one second language representation instruction
in the output stream responsive to identifying the unresolvable code in the input stream. Thus, a
DeLong-Lethin combination fails to teach or suggest the recited arrangement.

Further, claim 18 comprises all of the language of claim 1 and 5, such that the "presently
executing instruction" is a "second language instruction" that was placed in the output stream
"responsive to identifying the unresolvable code in the input stream" and is now "presently
executing." Whereas in Lethin, an interpreter is requesting that a first language instruction be
compiled by a compiler server request. Col. 49, lines 61-62. No combination of references in
this matter, teach or suggest the recited arrangement.

For at least these reasons claim 18 is allowable. Such action is respectfully requested.

Patentability Over Lindholm in view of DeLong

The Office has asserted an obviousness rejection under 35 U.S.C § 103(a) against
claims 15-17, 26 and 29 over U.S. Patent No. 6,618,855 ("Lindholm") in view of DeLong.
Respectfully, Applicants traverse these rejections.

Claim 15

Applicants respectfully submit that a Lindholm-DeLong combination fails to teach or
suggest "upon determining by a translator, that the unresolvable code in the input stream cannot
be translated from a first language representation into a second language representation, placing
at least one second language representation instruction in the output stream responsive to
identifying the unresolvable code in the input stream in the first language representation."

Lindholm states that when a "Java language program violates the constraints of an
operation, the JVM detects an invalid condition and signals this error to the program as an
exception." *See e.g.,* col. 3, lines 58-60. However, this is merely another example of the prior
art translator cannon—when a translation error is detected—abort translation. Aborting
translation and throwing an exception when a class cannot be verified teaches away from the
recited arrangement. Lindholm is describing the prior art method of aborting translation and

throwing an exception thereby ensuring "an illegal operation is not attempted." *See e.g.*, Lindholm, col. 4 lines 37-40.

Thus, Lindholm fails to teach or suggest "upon determining by a translator, that the unresolvable code in the input stream cannot be translated from a first language representation into a second language representation, placing at least one second language representation instruction in the output stream responsive to identifying the unresolvable code in the input stream in the first language representation." There is no "placing at least one second language representation instruction in the output stream responsive to identifying the unresolvable code in the input stream in the first language representation." In Lindholm, the translator simply throws a translation exception upon encountering unresolvable code.

Further, DeLong fails to teach or suggest the recited arrangement. DeLong assumes that the protected code region is already translated into a second language representation (col. 5, line 5). Thus, the protected region is translated. Thus, DeLong teaches squarely away from "upon determining by a translator, that the unresolvable code in the input stream cannot be translated from a first language representation into a second language representation, placing at least one second language representation instruction in the output stream responsive to identifying the unresolvable code in the input stream in the first language representation." Finally, a Lindholm-DeLong combination fails to teach or suggest the recites arrangement.

For at least this reason, claim 15 is allowable. Such action is respectfully requested.

Independent Claims 26, 29

Applicants respectfully submit that for reasons similar to those stated above, such as for claim 15, a Lindholm-DeLong combination fails to teach or suggest the following features:

Claim 26—"instruction(s) identifying suspected code and an unresolvable code in the first language input stream wherein instructions translating translatable portions of the first language input stream are unable to translate the unresolvable code into the second language output stream [and] instruction(s) placing an exception throwing instruction in the second language output stream in response to identifying the unresolvable code in the first language input stream"

Claim 29—"a translation sub-unit operational to insert a handling instruction in the second language output stream wherein the handling instruction is inserted in the second

language output stream subsequent to a translation sub-unit being unable to translate unresolvable code encountered in the first language input stream into code in the second language output stream"

The amendments to claims 15, 26, and 29 restate limitations already present and are amended to avoid unnecessary prosecution expenses that would be required to appeal a claim that Applicants believe provide the same scope. Since a Lindholm-DeLong combination fails to teach or suggest these features of independent claims 26 and 29 they should be allowable. Such action is respectfully requested.

Patentability Over DeLong and Lindholm

The Office has asserted an obviousness rejection under 35 U.S.C § 103(a) against claim 24 over DeLong in view of Lindholm. Respectfully, Applicants traverse these rejections.

Claim 24

Applicants respectfully submit that a DeLong-Lindholm combination fails to teach or suggest "identifying a first unresolvable instruction … in the input stream of the first language wherein one or more sub-units of translation are unable to translate the first unresolvable instruction into the output stream in the second language, … and … insert an exception throwing instruction in the output stream."

DeLong fails to teach or suggest the recited arrangement. DeLong assumes that the protected code region is already translated into a second language representation (col. 5, line 5). Thus, the protected region is translated. Thus, DeLong fails to teach or suggest the recited arrangement.

Lindholm states that when a "Java language program violates the constraints of an operation, the JVM detects an invalid condition and signals this error to the program as an exception." *See e.g.,* col. 3, lines 58-60. However, this is merely another example of the prior art translator cannon—when a translation error is detected—abort translation. Aborting translation and throwing an exception when a class cannot be verified teaches away from the recited arrangement. Lindholm is describing the prior art method of aborting translation and throwing an exception thereby ensuring "an illegal operation is not attempted." *See e.g.,*

Lindholm, col. 4 lines 37-40. Thus, Lindholm fails to teach or suggest the recited arrangement.

Finally, a Lindholm-DeLong combination fails to teach or suggest the recites arrangement.

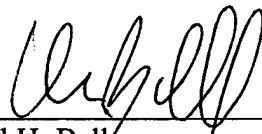For at least this reason, claim 23 is allowable. Such action is respectfully requested.

Conclusion

The claims in their present form should now be allowable. If the Examiner does not agree, please refer to Applicants Formal Request for an Interview. Such action is respectfully requested.

Respectfully submitted,

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